

RECORDING REQUESTED BY Re-RECORDED AT REQUEST OF SAFECO TITLE INSURANCE COMPANY  
and When Recorded Mail STATE OF CALIFORNIA NO FEE

G 08696  
STATE OF CALIFORNIA  
John A. Saurenman  
Deputy Attorney General  
3580 Wilshire Boulevard, Suite 600  
Los Angeles, California 90010

FEB 28 10 56 AM '84

APR 21 4 49 PM '83

OFFICE OF RECORDER  
COUNTY OF MONTEREY  
SALINAS, CALIFORNIA

OFFICE OF RECORDER  
COUNTY OF MONTEREY  
SALINAS, CALIFORNIA

NO FEE

STATE OF CALIFORNIA  
OFFICIAL BUSINESS  
(Document entitled to free  
recording pursuant to  
Government Code Section 6103)

G 16959

State Lands Commission BLA No. 230

No Tax Due \_\_\_\_\_

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MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT

AND SETTLEMENT AGREEMENT - BLA No. 230

NOTE: These conveyances are entered into solely for the purpose of perfecting title to the property herein described and, accordingly, do not involve a change in ownership pursuant to Section 62(b) of the California Revenue and Taxation Code.

THIS DOCUMENT IS BEING RE-RECORDED TO ADD ONE EXHIBIT PAGE WHICH WAS INADVERTENTLY OMITTED FROM THE DOCUMENT WHEN IT WAS FIRST RECORDED, AND TO CORRECT TWO OTHER EXHIBIT PAGES.

## BOUNDARY LINE AND SETTLEMENT AGREEMENT

BLA NO. 230

THIS BOUNDARY LINE AND SETTLEMENT AGREEMENT is made and entered into by and between the STATE OF CALIFORNIA, acting by and through the STATE LANDS COMMISSION; and the MOSS LANDING HARBOR DISTRICT, a political subdivision of the STATE OF CALIFORNIA; and Phil DiGirolamo and Judith DiGirolamo, husband and wife, dba Moss Landing Fisheries, (hereinafter referred to as "Upland Party".)

W I T N E S S E T H

WHEREAS, the State of California (hereinafter referred to as "the State") acquired title to tidelands and submerged lands, by virtue of its sovereignty, upon its admission to the Union;

WHEREAS, the California Legislature, pursuant to Statutes of 1947, Chapter 1190, as amended by Statutes of 1967, Chapter 131, granted to the Moss Landing Harbor District (hereinafter referred to as "the District") upon certain trusts and conditions, all of the State's right, title and interest in or to certain lands, salt marsh, tidelands, submerged lands, and swamp and overflowed lands within the Old Salinas River Channel, Bennett Slough, Elkhorn Slough, Moro Cojo Slough, and the Pacific Ocean or Monterey Bay; and

WHEREAS, the tidelands and submerged lands which are subject to this Agreement are within the Old Salinas

River Channel, which was included in the aforementioned grant to the District;

REEL 1711 PAGE 37

WHEREAS, the State Lands Commission is vested with all jurisdiction and authority remaining in the State as to tidelands and submerged lands granted to local agencies in trust, by the Legislature;

WHEREAS, Upland Party is the owner of, or has an interest in, a portion of that certain upland real property situated in Moss Landing, County of Monterey, State of California, described in that deed dated January 4, 1980, and recorded January 10, 1980, at Reel 1383, Page 697 of the Official Records of the County of Monterey;

WHEREAS, said upland real property is adjacent to and abuts the tidelands involved in this Agreement;

WHEREAS, on October 23, 1945, the District, and Wilbur Sandholdt, Mary Sandholdt, Lucile Sandholdt, and Parr-Moss Landing Terminal Company, predecessors in interest to Upland Party herein entered into an agreement entitled "Grant of Easements and Franchise," recorded in volume 874, page 46, of the Official Records of Monterey County hereinafter referred to as the "Sandholdt Agreement";

WHEREAS, said Sandholdt Agreement purported to grant to the Sandholdts and the Parr-Moss Landing Terminal Company, and their successors in interest, the right, privilege and franchise to construct and maintain, without District approval, improvements deemed by them necessary and

desirable for their use of the harbor area, between the mean high tide line and the navigable waters of the harbor without charge by the District;

REEL 1711 PAGE 38

WHEREAS, the Upland Party contends that on October 23, 1945, the District was authorized to make the aforementioned grant, and that it as successor in interest to the Sandholdts and the Parr-Moss Landing Terminal Company, possess the rights, privileges and franchises purportedly passed under the Sandholdt Agreement;

WHEREAS, the State contends that the District was, on October 23, 1945, without authority to make the aforementioned grant, and that no rights, privileges, or franchise thereby passed to the Sandholdts, Parr-Moss Landing Terminal Company, or their successors in interest;

WHEREAS, Upland Party and/or its predecessors in interest have constructed improvements over the tidelands and submerged lands adjacent to their upland parcel;

WHEREAS, the boundary between sovereign tidelands and privately owned uplands is the ordinary high water mark;

WHEREAS, the location of the ordinary high water mark in the subject area is uncertain and cannot be established without agreement or court judgments;

WHEREAS, a 1945 survey of the shore of the old Salinas River Channel adjacent to Upland Party's property by the Monterey County Surveyors, Inc., indicates that the line of mean high water prior to extensive dredging and

filling of the Old Salinas River Channel was substantially in the location of the present mean high water line;

WHEREAS, it is deemed necessary to establish the boundary between the upland parcel and the State-owned tidelands and submerged lands which have been granted by the Legislature to the District;

WHEREAS, by virtue of Public Resources Code Section 6357, the State, acting by and through the State Lands Commission, may permanently establish the ordinary high water mark of any tidelands of this State by agreement between the Upland Party and the State.

NOW, THEREFORE, it is agreed as follows:

1. In order to locate, describe and permanently establish the true and correct boundary line between the tidelands originally owned by the State by virtue of its sovereignty and presently vested in the State and District as set forth above, and said adjacent upland real property owned by Upland Party, it is agreed that said boundary line is that line described in Exhibit "A" and shown in Exhibit "D" attached hereto and by this reference made a part hereof.

2. It is the intent of the parties hereto that the aforescribed boundary line shall be permanent and fixed, and that it shall not be subject to any change by reason of either erosion or accretion, or both, whether resulting from natural or artificial conditions.

3. Upland Party hereby quitclaims, releases and remises all right, title and interest in and to those lands waterward of the common boundary line set forth in Paragraph 1 hereinabove to the State and District as their respective interests are described above, such lands being more particularly described in Exhibit "B" attached hereto and by reference made a part thereof.

4. The State, acting by and through the State Lands Commission and the District, hereby quitclaims, releases and remises all right, title and interest by virtue of sovereign ownership of tidelands and submerged lands in and to those lands landward of said common boundary line to Upland Party, such land being more particularly described in Exhibit "C" attached hereto by this reference and made a part hereof. Attached hereto as Exhibit "D", and incorporated by reference herein, is a plat showing the respective positions of the parcels involved in this Agreement.

5. Upland Party hereby quitclaims, releases and remises all rights, privileges, and franchises, if any, acquired pursuant to paragraphs 4 and 6 of the Sandholdt Agreement.

6. Pursuant to a "Lease Agreement and Permit for Improvements" entered into by Upland Party and the District, Upland Party shall be permitted to maintain certain encroachments now existing waterward of the common

boundary line set forth in Paragraph 1 hereinabove. A copy of said "Lease Agreement and Permit for Improvements" is attached hereto as Exhibit "E".

7. This Agreement shall become effective upon execution of this Agreement by all of the parties listed on page 1, and in the event any of such parties so listed voluntarily disposes of any interest affected by this Agreement prior to the recordation of this Agreement, the execution of this Agreement by the successor in interest of such party in lieu of such party.

8. Upon becoming effective, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors in interest, heirs and assigns.

9. It is expressly understood by all parties hereto that the provisions set forth in this Agreement have been determined for purposes of compromise and settlement. The matters agreed upon herein shall not constitute any admissions nor are they to be construed as an expression on the part of any party, except as between the parties hereto. Nor shall this Agreement affect in any manner the right, title or interest of any party hereto, or any third party, in or to lands other than those described herein.

10. No liability shall accrue to the STATE or DISTRICT for any injuries occurring prior to close of escrow in any cause in which the STATE or DISTRICT is alleged liable because of any asserted interests created in them by

this Agreement in the lands described in EXHIBITS "B" and "C", attached hereto.

11. As used herein, whenever the context so requires, the neuter gender includes the masculine and feminine, and the singular includes the plural, and vice versa. Defined terms are to have their defined meaning regardless of the grammatical form, number or tense of such terms.

12. All provisions of Paragraphs 5 & 6 of this Agreement shall be severable, separate and distinct from the other provisions of this Agreement. Should any party, or his successor in interest, heir or assign fail to comply with any or all of those provisions in said Paragraphs 5 & 6 after the effective date of this Agreement, such failure shall in no way affect the consideration of this Agreement or the validity or binding nature thereof. Nothing herein, however, shall affect or diminish the rights of any party hereto to enforce the provisions of said Paragraphs 5 & 6 against any other party hereto, or his successor in interest, heir or assign.

13. This Agreement may be executed in any number of counterparts and each executed counterpart shall have the same force and effect as an original and as if all of the parties to the aggregate counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without



impairing any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. In the execution of this Agreement each party hereto shall furnish some acknowledgements and certifications as may be necessary to duly record, in the Office of the County Recorder, its execution hereof.

IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be executed.

ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT AND  
SETTLEMENT AGREEMENT - BLA No. 230

PHIL DiGIROLAMO

DATED:

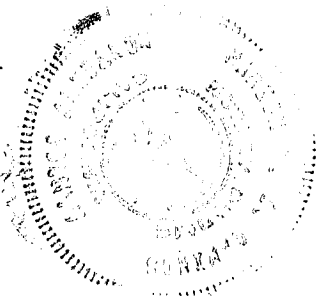
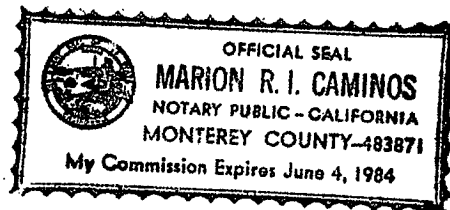
Phil D. Groffman.

COUNTY OF MONTEREY )  
 ) SS.  
STATE OF CALIFORNIA )

On this 25th day of February, 1983, before me the undersigned, a Notary Public in and for said State, personally appeared Philip DiGirolamo, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

Marion K. J. Cameros



ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT AND  
SETTLEMENT AGREEMENT - BLA No. 230

JUDITH DIGIROLAMO

DATED :

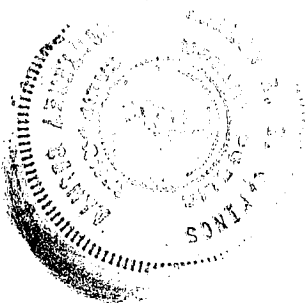
Judith di Gasolano

COUNTY OF MONTEREY )  
 ) SS.  
STATE OF CALIFORNIA )

On this 25th day of February, 1983, before me the undersigned, a Notary Public in and for said State, personally appeared Judith DiGirolamo, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

Marion K. J. Caminos



ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT AND  
SETTLEMENT AGREEMENT - BLA No. 230

Moss Landing Harbor District

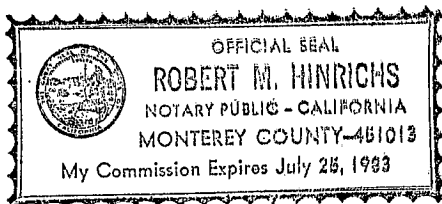
Dated: 2-10-83, 1983

By: *Granville Perkins*  
Granville Perkins  
President, Board of Harbor  
Commissioners

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF MONTEREY )

On this 10<sup>th</sup> day of February, in the year 1983, before me, Robert M. Hinrichs, a Notary Public in and for said State, personally appeared Granville Perkins, personally known to me to be the person who executed this instrument as President of the Board of Harbor Commissioners of Moss Landing Harbor District and acknowledged to me that the Moss Landing Harbor District executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the 10<sup>th</sup> day of February, 1983.



*Robert M. Hinrichs*  
Notary Public in and for the  
County of Monterey, State of  
California

ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT AND  
SETTLEMENT AGREEMENT - BLA No. 230

Address:

1807 - 13th Street  
Sacramento, CA 95814

April 15, 1983

STATE LANDS COMMISSION OF THE STATE  
OF CALIFORNIA AND STATE OF CALIFORNIA  
(State Lands Commission and State)

By

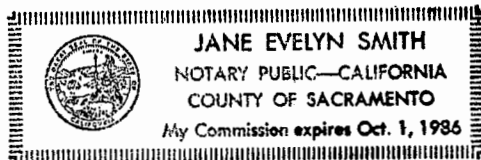
Claire T. Dedrick

Executive Officer

STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SACRAMENTO)

On April 15, 1983, before me, the undersigned, a Notary Public in and for the County of Sacramento, State of California, personally appeared CLAIRE T. DEDRICK, known to me to be the Executive Officer of the STATE LANDS COMMISSION, STATE OF CALIFORNIA, and known to me to be the person who executed the within instrument on behalf of said State Commission, and acknowledged to me that said Commission executed the within instrument pursuant to applicable State law and a resolution of said Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Jane Evelyn Smith  
Notary Public in and for the County of  
Sacramento, State of California

The Moss Landing Harbor Boundary Line Agreement and  
Settlement Agreement - BLA No. 230 is hereby approved this  
13 day of April, 1983.

JOHN K. VAN DE KAMP, Attorney General  
of the State of California

By

John A. Saurenman

JOHN A. SAURENMAN  
Deputy Attorney General

ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR BOUNDARY LINE AGREEMENT AND  
SETTLEMENT AGREEMENT - BLA No. 230

IN APPROVAL WHEREOF, I GEORGE DEUKMEJIAN, Governor of the State of California, have set my hand and caused the Seal of the State of California to be hereunto affixed pursuant to Section 6107 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento, this the 19 day of April, in the year of our Lord one thousand nine-hundred eighty-three.

George Deukmejian  
GOVERNOR OF THE STATE OF CALIFORNIA

ATTEST:

March Fong Eu  
SECRETARY OF STATE

Majorie Heuberg



EXHIBIT "A"  
AGREED BOUNDARY

A line located at Moss Landing, Monterey County, California described as follows:

BEGINNING at a point on the southerly line of that parcel of land described as Parcel 4 in Exhibit "A" attached to the corporation quitclaim deed from Parr-Richmond Terminal Company to Phil Digirolomo and Judith Digirolomo et al., dated Jan. 4, 1980, recorded January 10, 1980 in Reel 1383, Page 697 Official Records of Monterey County, from said point of beginning the southwest corner of said Parcel 4 bears N 66° 25' 12" W (N 68° 15' W Deed) a distance of 6.78 feet, said point of beginning having California Coordinate System Zone IV coordinates X = 1,184,323.32, Y = 546,515.06; thence the following five (5) courses:

1. N 24° 19' 16" E, 103.26 feet;
2. N 50° 46' 32" E, 14.37 feet;
3. N 23° 29' 55" E, 125.77 feet;
4. N 11° 34' 07" W, 14.25 feet;
5. N 27° 21' 42" E, 96.95 feet to a point with California Coordinate System coordinates X = 1,184,468.83, Y = 546,833.66, on the northerly line of that Parcel 6 described in the above mentioned Exhibit "A", from which the northwesterly corner of said Parcel 6 bears N 66° 25' 12" W (N 68° 15' W, deed) a distance of 12.69 feet.

Bearings and distances are based on the California Coordinate System Zone IV, unless otherwise noted.

END DESCRIPTION

## EXHIBIT "B"

A parcel of land at Moss Landing in Monterey County, California being a portion of the land described as Parcel 2, Parcel 4 and Parcel 6 in Exhibit "A" attached to, and made a part of, the corporation quitclaim deed from Parr-Richmond Terminal Company to Phil Digirolamo and Judith Digirolomo et al., dated Jan. 4, 1980, recorded January 10, 1980 in Reel 1383 Page 697 official records of Monterey County, described as follows:

BEGINNING at the southwesterly corner of the parcel of land described as Parcel 4 in the above mentioned Exhibit "A", thence according to said deed S 68° 15' E, 312.52 feet to a point in the fifth course of the patent survey of the Monterey City Lands Tract No. 3 filed in Book F of Patents at Page 178 Monterey County records, said point being the southeasterly corner of said Parcel 4; thence along said fifth course and along the easterly line of Parcel 4, Parcel 2 and Parcel 6 N 26° 45' E, 351.51 feet to the northeasterly corner of said Parcel 6; thence along the northerly line of said Parcel 6, N 68° 15' W, 343.16 feet to the northwesterly corner thereof; thence southerly along the westerly line of Parcel 6, Parcel 2 and Parcel 4, S 21° 45' W, 350.19 feet to the point of beginning. EXCEPTING therefrom that portion thereof lying westerly of the following described line:

BEGINNING at a point on the southerly line of that parcel of land described as Parcel 4 in Exhibit "A" attached to the corporation quitclaim deed from Parr-Richmond Terminal Company to Phil Digirolomo and Judith Digirolomo et al., dated January 4, 1980, recorded January 10, 1980 in Reel 1383, Page 697 Official Records of Monterey County, from said point of beginning the southwest corner of said Parcel 4 bears N 66° 25' 12" W (N 68° 15' W Deed) a distance of 6.78 feet, said point of beginning having California Coordinate System Zone IV coordinates X = 1,184,323.32, Y = 546,515.06; thence the following five (5) courses:

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2. N 50° 46' 32" E, 14.37 feet;
3. N 23° 29' 55" E, 125.77 feet;
4. N 11° 34' 07" W, 14.25 feet;
5. N 27° 21' 42" E, 96.95 feet to a point with California Coordinate System coordinates X = 1,184,468.83, Y = 546,833.66, on the northerly line of that Parcel 6 described in the above mentioned Exhibit "A", from which the northwesterly corner of said Parcel 6 bears N 66° 25' 12" W (N 68° 15' W, deed) a distance of 12.69 feet.

Bearings and distances are based on the California Coordinate System Zone IV, unless otherwise noted.

END DESCRIPTION



## EXHIBIT "C"

A parcel of land at Moss Landing in Monterey County, California being a portion of the land described as Parcel 2, Parcel 4 and Parcel 6 in Exhibit "A" attached to, and made a part of, the corporation quitclaim deed from Parr-Richmond Terminal Company to Phil Digirolamo and Judith Digirolomo et al., dated Jan. 4, 1980, recorded January 10, 1980 in Reel 1383 Page 697 official records of Monterey County, described as follows:

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1. N 24° 19' 16" E, 103.26 feet;
2. N 50° 46' 32" E, 14.37 feet;
3. N 23° 29' 55" E, 125.77 feet;
4. N 11° 34' 07" W, 14.25 feet;
5. N 27° 21' 42" E, 96.95 feet to a point with California Coordinate System coordinates X = 1,184,468.83, Y = 546,833.66, on the northerly line of that Parcel 6 described in the above mentioned Exhibit "A", from which the northwesterly corner of said Parcel 6 bears N 66° 25' 12" W (N 68° 15' W, deed) a distance of 12.69 feet.

Bearings and distances are based on the California Coordinate System Zone IV, unless otherwise noted.

END DESCRIPTION

Fd. nail in conc. filled 3" I.P.  
per Vol. 6 Survey Pg. 76

# BASIS OF BEARINGS

Bearings and Distances are based on the Calif.  
Coordinate System Zone IV. On that basis the  
the bearing on the line from Castoville to Moss 2  
is N 19° 19' 58" E. Scale factor is 1.0000542.

REEL 1711 PAGE 52  
REEL 1628 PAGE 29

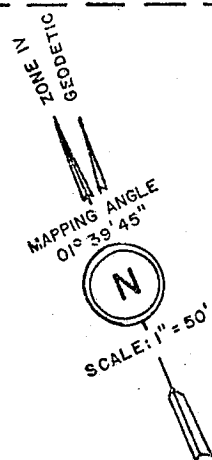
SEA PRODUCTS CO.  
BK 1671 O.R. 439  
PARCEL 2

NW Cor. Pcl 6  
R 1383 Pg. 697

S 66° 25' 12" E (N 68° 15' W 343.16')

RIVER

PARCEL 6



Fd. 4" x 4" post  
0.19' w'ly of line  
Bk. 1548 O.R. 127  
P.O.B. Pcl. 2

50'

SALINAS

PARCEL 2

P. & J. DIGIROLAMO and M. & S. MARTIN  
R 1383 Pg. 697

SANDHOLDT ROAD  
BK. 1077 O.R. 223  
PARCEL 1

(S 21° 45' W 350.19')  
S 23° 34' 48" W 350.20'

(S 21° 45' W 350.19')  
S 23° 34' 48" W 350.20'

PARCEL 4

## LEGEND

- Fd. Mon. as Described
- Dimensional Point
- Agreed Boundary
- ( ) Record Bearing Per R 1383 Pg 697

SW Cor. Pcl. 4  
R 1383 Pg. 697

S 66° 25' 12" E (S 68° 15' E 312.52')

GENERAL FISH CORP.  
R 888 O.R. 661

PLAT SHOWING  
AGREED BOUNDARY LINE  
B.L.A. 230

MOSS LANDING, MONTEREY CO., CALIF.

EXHIBIT "D"

10/28/82 D.J.B.

N 66° 25' 12" W 6.11

X=1,184,102.58  
Y= 546,010.99  
Fd. 4" x 4" post per  
Bk. 1967 O.R. 363 Pcl. III

REEL 1711 PAGE 53

REEL 1628 PAGE 30

EXHIBIT E

Lease Agreement And  
Permit for Improvements

RECORDING REQUEST BY  
and When Recorded Mail to:

STATE OF CALIFORNIA  
John A. Saurenman  
Deputy Attorney General  
3580 Wilshire Boulevard, 6th Floor  
Los Angeles, California 90010

REEL 1711 PAGE 54

STATE OF CALIFORNIA  
OFFICIAL BUSINESS  
(Document entitled to free  
recording pursuant to  
Government Code Section 6103)

REEL 1628 PAGE 31

State Lands Commission BLA No. 230

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LEASE AGREEMENT AND  
PERMIT FOR IMPROVEMENTS

RECITALS

A. The State of California (hereinafter referred to as "the State") acquired title to tidelands and submerged lands, by virtue of its sovereignty, upon its admission to the Union;

B. The California Legislature, pursuant to Statutes of 1947, Chapter 1190, as amended by Statutes of 1967, Chapter 131, granted to the Moss Landing Harbor District (hereinafter referred to as "the District") upon certain trusts and conditions, all of the State's right, title and interest in and to certain lands, salt marsh, tidelands, submerged lands, and swamp and overflowed lands within the Old Salinas River

/

1.

Channel, Bennett Slough, Elkhorn Slough, Moro Cojo Slough, and Pacific Ocean or Monterey Bay;

REEL 1711 PAGE 55

C. The tidelands and submerged lands which are subject to this Agreement are within the Old Salinas River Channel, which was included in the aforementioned grant to the District;

D. Phil DiGirolamo and Judith DiGirolamo, husband and wife, dba Moss Landing Fisheries, (hereinafter referred to as "Upland Party"), is the owner of, or has an interest in, a portion of that upland real property situated in Moss Landing, County of Monterey, State of California, described in that deed dated January 4, 1980 and recorded January 10, 1980, at Reel 1383, Page 697 of the Official Records of Monterey County;

E. Said upland real property is adjacent to and abuts the tidelands involved in this agreement;

F. The true and correct boundary between the property of the Upland Party and the tide and submerged lands owned by the State and the District having been uncertain and in dispute, the Upland Party and the State and the District entered into a boundary line agreement, recorded on April 21 1983, at INSTRUMENT NO. 16959 Reel \_\_\_\_\_, Page \_\_\_\_ of the Official Records of Monterey County and incorporated by reference herein, to make certain said boundary (hereinafter referred to as "the agreed boundary");

G. Upland Party has maintained certain improvements waterward of the agreed boundary which are in the nature of facilities used for a commercial fishing enterprise;

H. The area waterward of said agreed boundary currently occupied by Upland Party and within which said

improvements are located (hereinafter referred to as "Premises") consists of approximately 16,123 square feet. Said Premises are more particularly described in Exhibit 1 attached hereto and incorporated herein by reference;

NOW, THEREFORE, with reference to the foregoing recitals, the undersigned hereby make the following Agreement:

1. Upland Party shall be permitted to maintain said existing improvements described in Paragraph G above for a period of 20 years at the rate set forth below. For purposes of this Agreement, said 20 year period shall be deemed to have commenced on April 21, 1983 and shall terminate on April 21, 2003.

a. Upland Party shall pay no rent for the use of the Premises and maintenance of said existing improvements for the initial 10 years of the 20 year period described above.

b. Prior to the commencement of the eleventh year of the lease period, the District shall cause an appraisal of the Premises to be conducted to determine the fair market value per square foot of the Premises.

c. Commencing in year eleven, Upland Party agrees to pay rental on the Premises, said rental to be a percentage of the fair market value determined in the appraisal conducted pursuant to paragraph 1.b above, and according to the schedule provided in paragraph 1.d below.

/

d. The rental charged for years eleven through twenty shall be as follows:

- 1) In year 11, 1% of fair market value
- 2) In year 12, 2% of fair market value
- 3) In year 13, 3% of fair market value
- 4) In year 14, 4% of fair market value
- 5) In year 15, 5% of fair market value
- 6) In year 16, 6% of fair market value
- 7) In year 17, 7% of fair market value
- 8) In year 18, 8% of fair market value
- 9) In year 19, 9% of fair market value
- 10) In year 20, 9% of fair market value

2. Upland Party shall pay to the Moss Landing Harbor District the amount of rent set forth in Paragraph 1 above which amount is due, owing and payable in advance upon the 10th anniversary of the execution of this agreement and on each anniversary date yearly thereafter. Any installments of rental, royalty, or other consideration accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224.

3. Upland Party may paint and make routine repairs of such existing improvements, but shall not reconstruct or otherwise improve the same in any manner whatsoever without written permission of the Moss Landing Harbor District except as provided in Paragraph 5 below.

4. Upland Party shall not construct or maintain, either permanently or temporarily, any additional improvements

waterward of the agreed boundary line except as provided in Paragraph 5.

REEL 1711 PAGE 58

5. The District expressly agrees to allow Upland Party to undertake certain improvements on the Premises as described in Exhibit 2, attached hereto and incorporated by reference including in said Exhibit a letter of February 2, 1983 from Frank E. Osmer to John A. Saurenman, a rendering of the proposed project, and site plan and elevation drawings of December 1, 1982 by J. Andrew Wilson & Associates. To the extent that said improvements increase the area occupied by Upland Party waterward of the agreed boundary, such additional area shall be treated in the same fashion as the Premises and Upland Party shall be liable in rent for the additional area in the same fashion as for the Premises. In the event Upland Party occupies said additional area at a time subsequent to the commencement of this agreement, rental for said additional area shall be assessed at the rate then being assessed for the Premises and shall continue to be assessed at the rate assessed for the Premises until such time as this agreement is terminated.

6. Upland Party shall use the Premises only for the purpose of operating a commercial fishing enterprise and only for the operation and maintenance of the improvements authorized herein. Upland Party shall commence use of the Premises within ninety (90) days of the beginning date of this lease. Thereafter Upland Party's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

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7. Upland Party shall practice conservation of water and other natural resources and shall prevent pollution and harm to the environment in or on the Premises.

8. Upland Party expressly agrees that the continued existence of said improvements or any new improvements authorized by the District, shall not give rise to any claim of prescriptive rights or any other right, title or interest vis a vis the State, acting by and through the State Lands Commission, and the Moss Landing Harbor District or any other public entity that may acquire the tidelands and submerged lands within the Moss Landing Harbor District.

9. In the event of failure of Upland Party to pay the consideration as provided herein within the time specified or in the event of breach of any of the terms or conditions contained herein, the District shall have the right to terminate this Lease Agreement and Permit for Improvements on giving to Upland Party a thirty (30) day written notice to correct such default or breach and in the event Upland Party fails to do so, within thirty (30) days, the District shall have the right to reenter and occupy the Premises and remove all property therefrom, provided however, that any reentry or repossession of the Premises shall not operate to release Upland Party from any obligation under this Agreement.

10. The District at all reasonable times and upon reasonable notice shall have a right to enter said Premises for the purpose of making any reasonable inspection to determine

whether the terms and conditions of this Agreement are being fulfilled by Upland Party.

11. Parties hereto shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission, the Harbor District, or any other governmental agency or entity having lawful authority and jurisdiction.

12. The Upland Party recognizes and understands in accepting this Lease Agreement and Permit for Improvements that it may be liable for a possessory interest tax imposed by a City or County on its leasehold interest and that its payment of such a tax shall not reduce the amount of consideration due the Harbor District under this Lease Agreement and that the Commission and Harbor District shall have no liability for the payment of such tax.

13. In the event any of the parties to this Agreement is required to bring any action at law or equity to collect the payment of any consideration due hereunder or to enforce any of the terms or conditions of this Agreement, the prevailing party shall be reimbursed by the non-prevailing party for such costs as may be incurred in the bringing of such action, including reasonable attorney's fees.

14. The Harbor District shall not be liable and Upland Party shall indemnify, hold harmless and, at the option of the Harbor District, defend the Harbor District, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause,

occurring on the Premises or improvements, or arising out of or connected in any way with the issuance of this Lease Agreement. Upland Party shall give prompt notice to the Harbor District in case of any acts, injury or casualty on the Premises.

15. (a) Upland Party shall obtain at its own expense and keep in full force and effect during the lease term with an insurance company acceptable to the Harbor District comprehensive liability insurance, for specified categories and amounts, insuring the Upland Party and the Harbor District against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Premises and all improvements.

(b) The insurance policy or policies shall name the Harbor District as an additional insured or co-insured party as to the Premises and shall identify the Lease Agreement by its assigned number. Upland Party shall provide the Harbor District with a certificate of such insurance and shall keep such certificate current.

(c) The liability insurance coverage specified in this Lease Agreement shall be in effect at all times during the lease term and subsequently until the Harbor District has accepted possession and control of the Premises.

16. This Lease Agreement and Permit for Improvements may be terminated at any time by Upland Party by the removal of

all improvements waterward of the agreed boundary line, by giving written notice to the District and by the payment of any consideration due and owing at the time of termination. Such termination of this Lease Agreement and Permit for Improvements shall have no impact upon the agreed boundary line.

17. Upon termination of this Lease Agreement and Permit for Improvements, the District shall have the right to reenter the Premises and remove and dispose of all property therefrom. The cost of removal of said property shall be borne by Upland Party, on tender of a bill by the District.

18. Upland Party in its use of the lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, national origin, sex, age or physical handicap.

19. This Agreement in no way alters the rights of the State of California reserved in section 2(e) of Chapter 131 of the Statutes of 1967 and in section 1(e) of Chapter 1190 of the Statutes of 1947 pertaining to all deposits of minerals, including oil and gas, in those lands granted to the Moss Landing Harbor District by said statutes; nor are the rights of the State of California to prospect for, mine and remove such deposits from such lands altered.

20. (a) Upland Party shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this lease and shall not sublet the leased Premises, in whole or in part, or allow any person other than Upland Party's employees,

agents, servants and invitees to occupy or use all or any portion of the Premises without the prior written consent of the Harbor District.

(b) This Lease Agreement shall be appurtenant to littoral or riparian land and any ownership interest or use rights of Upland Party in such lands and it shall not be severed from such rights or interest without the prior written consent of the Harbor District.

21. Upland Party shall, within ninety (90) days of the expiration or sooner termination of this Lease Agreement, execute and deliver to the Harbor District in a form provided by the Harbor District a good and sufficient release of all rights under this Lease Agreement. Should Upland Party fail or refuse to deliver such a release, a written notice by the Harbor District reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Upland Party and all other claimants of the termination of this lease and any rights or interests of Upland Party in the Premises.

22. Any holding over by Upland Party after the expiration of the lease term, with or without the express or implied consent of lessor, shall constitute a tenancy from month to month and not an extension of the lease term and shall be on the terms, covenants and conditions of this lease with rental, royalty or other considerations payable in advance on the first day of each month at the rate of 1/12th of the annual amount.

23. The following additional terms apply to this Agreement:

(a) No term, covenant or condition of this Lease Agreement and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by the Harbor District's acceptance of a late or non-conforming performance or otherwise, unless such a waiver is expressly acknowledged by the Harbor District in writing. Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition or any other default or breach of any term, covenant or condition of this lease.

(b) Time is of the essence of this lease and each and all of its terms, covenants or conditions in which the performance is a factor.

(c) All notices required to be given under this lease shall be given in writing, sent by United States mail with postage prepaid, to the Harbor District at its offices and to the Upland Party at the address specified by it. Upland Party shall give the Harbor District notice of any change in its name or address.

(d) Where the Harbor District's consent is required under this Lease Agreement, its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

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IN WITNESS WHEREOF, the parties hereto have executed  
this lease as of the date hereafter affixed.

REEL 1711 PAGE 65

Upland Party  
Moss Landing Fisheries

Phil Digirolomo  
PHIL DIGIROLOMO

Judith Digirolomo  
JUDITH DIGIROLOMO

Moss Landing Harbor District

By: [Signature]

Title: President

Date: 2-10-83

The issuance of this lease was authorized  
by the Board of Harbor Commissioners of the  
Moss Landing Harbor District on February 10, 1983.

The State Lands Commission, having reviewed this "Lease  
Agreement and Permit for Improvements," finds said "Lease  
Agreement and Permit for Improvements" to be consistent with  
public trust needs and with the granting Statute.

State of California  
STATE LANDS COMMISSION

By: [Signature]

Title: EXECUTIVE OFFICER

Date: 4/15/83

The approval of this lease was authorized  
by the State Lands Commission on February 28, 1983.

IN WITNESS WHEREOF, the parties hereto have executed  
this lease as of the date hereafter affixed.

REEL 1711 PAGE 66

Upland Party  
Moss Landing Fisheries

*Phil Digirolamo*  
\_\_\_\_\_  
PHIL DIGIROLAMO

*Judith Digirolamo*  
\_\_\_\_\_  
JUDITH DIGIROLAMO

Moss Landing Harbor District

By: *[Signature]*

Title: President

Date: 2-10-83

The issuance of this lease was authorized  
by the Board of Harbor Commissioners of the  
Moss Landing Harbor District on FEBRUARY 10, 1983.

The State Lands Commission, having reviewed this "Lease  
Agreement and Permit for Improvements," finds said "Lease  
Agreement and Permit for Improvements" to be consistent with  
public trust needs and with the granting Statute.

State of California  
STATE LANDS COMMISSION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The approval of this lease was authorized  
by the State Lands Commission on \_\_\_\_\_.

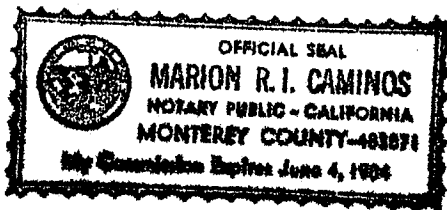


ATTACHED TO AND MADE A PART OF THE  
MOSS LANDING HARBOR LEASE AGREEMENT AND  
PERMIT FOR IMPROVEMENTS - BLA No. 230

County of Monterey )  
 ) ss.  
State of California)

On this the 25th day of February, 1983, before me, Marion R. J. Caminos  
the undersigned, a Notary Public in and for said State, personally  
appeared Phil DiGirolamo, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person whose name is  
subscribed to the within instrument and acknowledged that he executed  
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
seal on the 25th day of February, 1983.

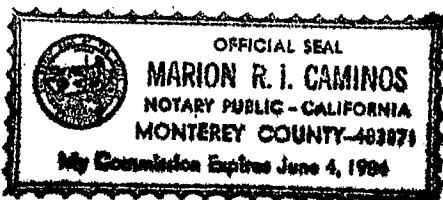


Marion R. J. Caminos  
Notary Public in and for the County  
of Monterey, State of California

County of Monterey )  
 ) ss.  
State of California)

On this the 25th day of February, 1983, before me, Marion R. J. Caminos  
the undersigned, a Notary Public in and for said State, personally  
appeared Judith DiGirolamo, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person whose name is  
subscribed to the within instrument and acknowledged that she executed  
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
seal on the 25th day of February, 1983.



Marion R. J. Caminos  
Notary Public in and for the County  
of Monterey, State of California

REEL 1711 PAGE 68

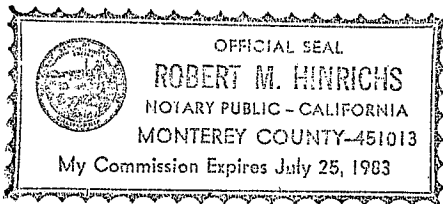
COUNTY OF MONTEREY )

) SS.

STATE OF CALIFORNIA)

On this the 10th day of February, 1983, before me, Robert M. Hinrichs, the undersigned Notary Public, personally appeared Granville Perkins, personally known to me to be the person who executed this instrument as President of the Board of Harbor Commissioners of Moss Landing Harbor District and acknowledged to me that the Moss Landing Harbor District executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the 10th day of February, 1983.



Robert M. Hinrichs  
Notary Public in and for the County  
of Monterey, State of California

EXHIBIT 1  
LEASE DESCRIPTION

REEL 1711 PAGE 69

A parcel of land at Moss Landing, Monterey County, California described as follows:

COMMENCING at a concrete monument with tag marking the south-westerly corner of that 2.65 acre parcel of land shown on that map filed in Volume 6 of Surveys Page 76, Monterey County Records Office, said point being the northwesterly corner of that Parcel 2 described in Book 1671 Page 439 of official records of said county; thence along said parcel South 23° 34' 48" West, 86.34 feet; thence South 66° 25' 12" East, 12.69 feet; thence leaving said line South 27° 21' 42" West, 96.95 feet to the POINT OF BEGINNING of this description; thence South 60° East, 95.0 feet; thence South 30° West, 90.0 feet; thence South 60° East, 85.0 feet; thence South 30° West, 55.0 feet; thence North 60° West, 159.86 feet; thence North 50° 46' 32" E, 10.03 feet; thence North 23° 29' 55" East, 125.77 feet; thence North 11° 34' 07" West, 14.25 feet to the point of beginning. Containing 0.370 Ac. more or less.

Bearings and distances are based on the California Coordinate System Zone IV.

END DESCRIPTION

FRANK E. OSMER

P. O. BOX 57  
WATSONVILLE, CA 95076

February 2, 1983

REEL 1711 PAGE 70

John A. Saurenman  
Deputy Attorney General  
Los Angeles, Ca 90010.

Dear John:

In response to our telephone conversation, here is a general description of the proposed improvements to be made by Moss Landing Fisheries, and for which permits will be necessary, as indicated in the proposed lease:

Projected construction on the Moss Landing Fisheries property on the easterly, or harbor, side of Sandholdt Road is as follows:

Starting at the southerly portion of the parcel, a combination of both owned and leased property, there will be a processing shed (1), a freezer plant (2), a two-story building (3), and a structure for fuel, ice, etc.

The most southerly building (1) will be for processing equipment, filet lines, skinning machines and packing machines, and wash tumblers. This building will be 60 feet by one hundred twenty five feet. A 65 feet by 65 feet freezing plant (2) is also in the plans, adjacent to the processing plant, and both of these buildings will be attached to a pier, which extends easterly into the harbor.

The two-story building (3) will be north of the processing building and freezer. It will be approximately 66 feet by 40 feet, and the upstairs will house the offices for all Moss Landing Fisheries operations. The lower floor will be a receiving station, which will receive, weigh, and perform preliminary cleaning and slime and ice removal.

The next building (4) will be attached to a dock, with its dimensions 30 feet by 80 feet. The dock measures 20 feet by 80 feet. The building will provide ice, fuel, and bait. Maintenance equipment necessary for the entire operation will also be housed in this building.

The construction of a retaining wall, or bulkhead, will be necessary to prevent further eroding of the shore line, will be necessary before these buildings can be erected.

Enclosed is an architect's drawing depicting the building described above.

EXHIBIT 2  
Page 1

Yours very truly,

*Frank E. Osmer*

Frank E. Osmer  
For Moss Landing Fisheries

FEO/s

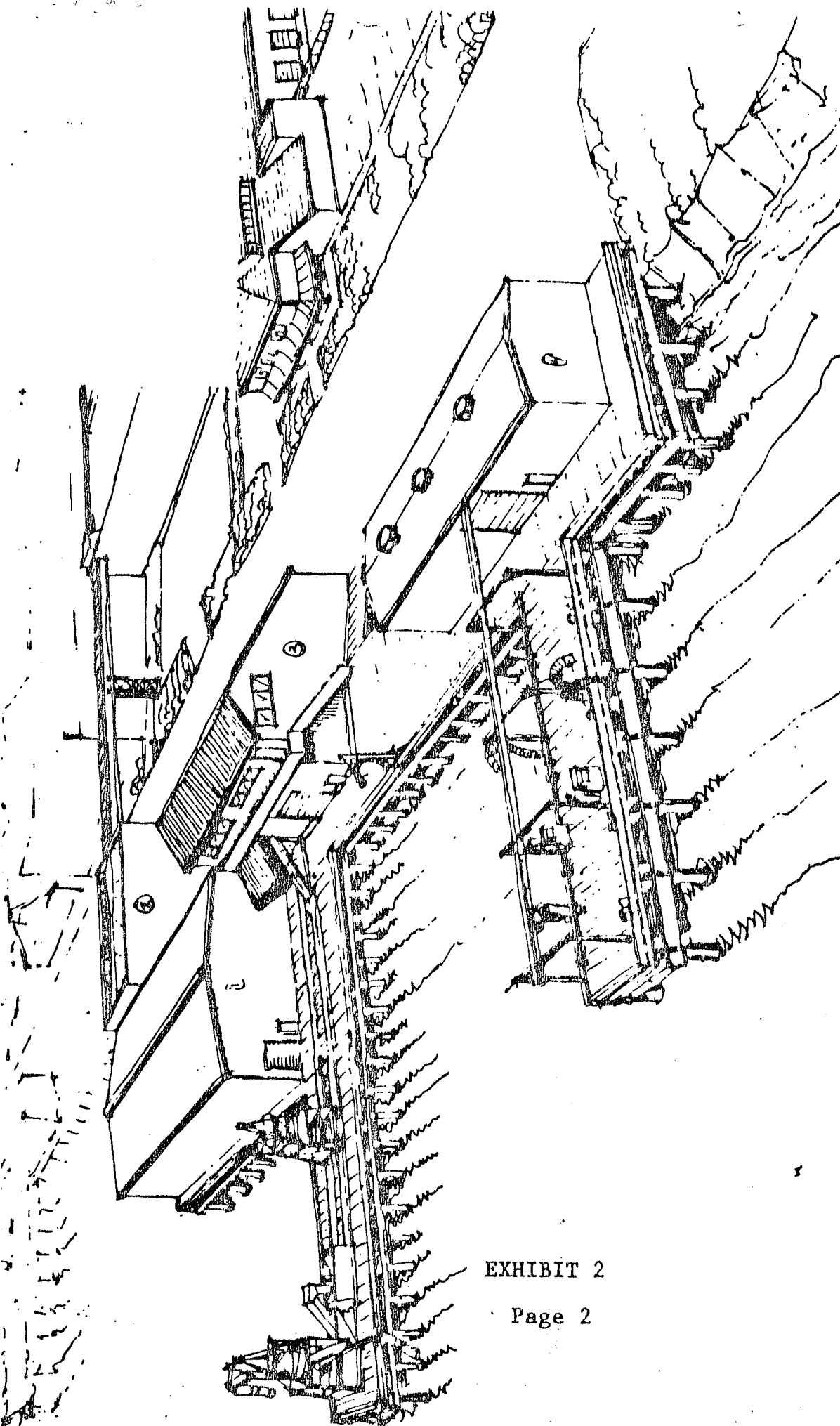
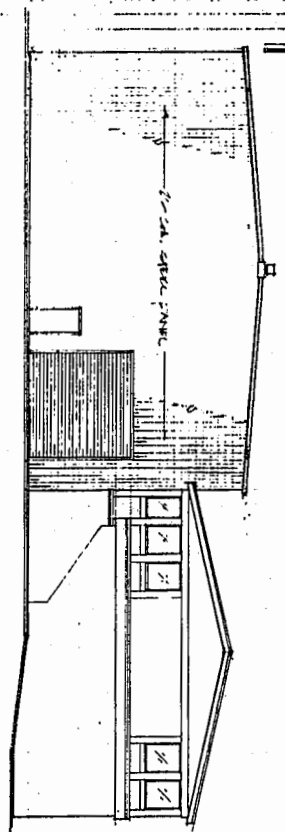


EXHIBIT 2

Page 2



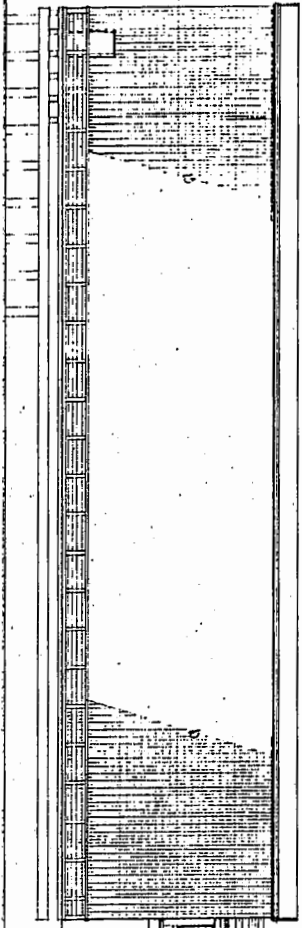
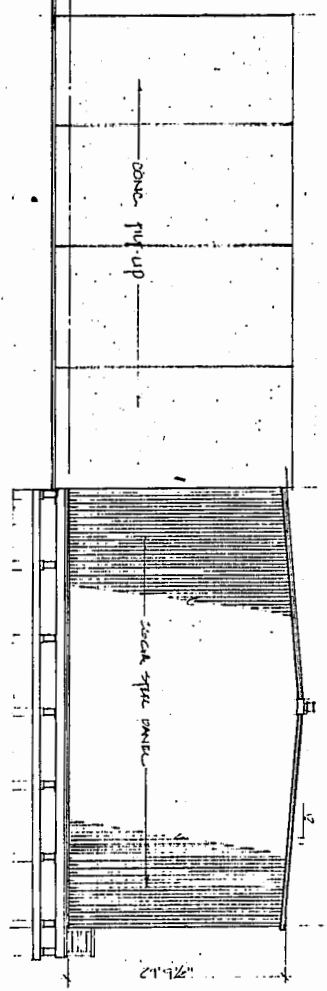


NORTH ELEVATION

CONCRETE

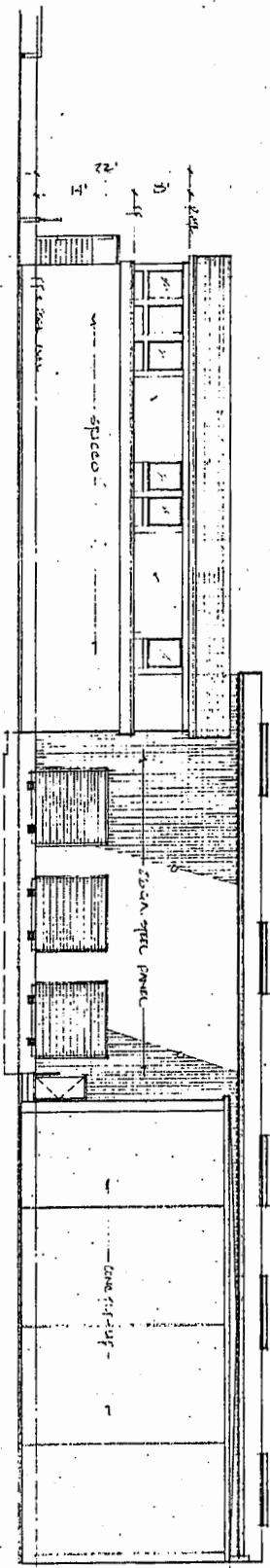
SOUTH ELEVATION

CONCRETE



EAST ELEVATION

CONCRETE



WEST ELEVATION

CONCRETE

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